Referencing an amicus brief filed by dozens of retired U.S. military leaders—including Generals Norman Schwarzkopf, John Shalikashvili, Hugh Shelton, Anthony Zinni, and Wesley Clark—the Court wrote that ''high-ranking retired officers and civilian leaders of the United States military assert that, 'based on their decades of experience,' a 'highly qualified, racially diverse officer corps . . . is essential to the military's ability to fulfill its principle mission to provide national security' ''.

In addition, the Court brought the issue of diversity close to home. Noting that law schools represent ''the training ground or a large number of our Nation's leaders,'' the Court observed that individuals with law degrees occupy more than half the seats in the United States Senate (59), a third of the seats in the House of Representatives (161), and roughly half the state governorships.

A third important aspect of yesterday's decision is the rejection of the Bush Administration's position that both Michigan programs were unconstitutional and should be struck down. It gives you an idea of how conservative the Bush Administration is. Even this Supreme Court—in which 7 of 9 members were appointed by Republican Presidents—rejected its arguments.

Contrary to the misleading assertions of President Bush and other opponents of affirmative action, the Court held that Michigan Law School's policy of seeking a ''critical mass'' of minority students did not as a de facto quota.

Between 1993 and 2000, the number of African Americans, Native Americans, and Latinos in each class varied from 13% to 20%. As the Court noted, diminishing stereotypes about ''minority viewpoints'' is ''a crucial part of the Law School's mission, and one that it cannot accomplish with only token numbers of minority students.''

The Court also rejected the Bush Administration's position that you could attain diversity through race-neutral means, such as the ''percentage plans'' in Texas, Florida, and California, which guarantee admission to all student about a certain class-rank threshold in every high school in the state.

The Court rejected this argument for two main reasons: 1, percentage plans don't work for graduate and professional schools, and 2, they are, ironically, even more mechanical and inflexible than the Michigan undergraduate program.

The Court shot down another central argument of the Bush Administration—that affirmative action programs were invalid unless they had a definitive end date. As Justice O'Connor observed: ''It has been 25 years since Justice Powell first approved the use of race to further an interest in student body diversity in the context of public higher education. Since that time, the number of minority applicants with high grades and test scores has indeed increased. We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today.''

I hope that Justice O'Connor is right.

The Michigan case is yet another reminder of the fragile balance on the Supreme Court, and how high the stakes will be if a Justice retires.

If there were a switch of a single Justice in yesterday's case, things would be dramatically different today. If there had been a fifth vote to end race-conscious affirmative action in America's universities, we would face a sudden reduction in minority students on our Nation's college campuses, especially at the elite ones.

The dean of Georgetown Law School—my alma mater—speculated yesterday that if the decision had gone the other way, Georgetown's minority enrollment would have been cut in half.

America cannot afford to turn back the clock on opportunity for all of our citzens and—by a 5–4 margin—the Supreme Court agrees.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on October 8, 2001. In Hyannis, MA, a 31-year-old man attacked two convenience store clerks from Pakistan. The suspect walked into the store, approached the two clerks and asked them if they were from Pakistan. The two men responded affirmatively, which further enraged the suspect. The perpetrator began cursing and accusing the pair for ''almost killing'' his family and attacking the United States. One of the clerks attempted to calm the man down and led him outside. Once outside, the man punched the clerk, sending him to the ground. The attacker proceeded to kick him until the second clerk rushed outside to halt the attack. The man was later arrested by police.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VIOLENCE AGAINST WOMEN OFFICE

Mr. BIDEN. Mr. President, I rise to speak today to mark several important developments in our Nation's fight to end domestic violence, sexual assault, and stalking. First, I recently had the honor of addressing domestic violence advocates from across the country who have convened in Washington, DC, to attend the annual meeting of the National Network to End Domestic Violence. These are the women and men on the front lines, transforming the Violence Against Women Act from words on a piece of paper into real solutions for battered women and children.

These advocates witness the terrible toll of family violence. They, in essence, know the statistics by heart. Statistics like 20 percent of all nonfatal violence against females over 12 years of age were committed by intimate partners, according to government statistics released in February 2003. Or the statistics that tell us that in 2000 alone, 1,247 women were killed by an intimate partner. These advocates experience what the studies confirm; that is, in almost half of the households with domestic violence, there are children under the age of 12.

In the face of such daunting numbers, I was pleased to tell these advocates that our fight for an independent and separate Violence Against Women Office is over. I have been assured by Attorney General Ashcroft that his department will comply with the directive for an independent office that was in the law passed by the Congress last session. I want to make clear that my Violence Against Women Office Act and subsequent push to ensure compliance was not a fight about office space or bureaucratic in-fighting. I introduced this legislation because I know that a separate office means that the office's leadership and agenda cannot be marginalized or pushed to a back office. A separate office means that violence against women issues stay at the forefront and that its director appointed by the President and confirmed by the Senate will have an office with the stature and status to use it as the bully pulpit on domestic violence issues that I intended when I authored the Violence Against Women Act.

Nor is the independent office simply a Joe Biden issue. The Violence Against Women Office Act was voted on favorably—with no objections—in the Senate Judiciary Committee. The act passed unanimously in the Senate and passed overwhelmingly in the House. The mandate for freestanding Violence Against Women Office is Congress' law, not a whim.

Despite the law's clear language and intent, the Department of Justice formally announced in February 2003 that it ''interpreted'' the new law to permit the office to remain as a part of the Office of Justice Program, the arm of the Justice Department which handles grant making, rather than implementing significant policy decisions. I vigorously protested this ''interpretation,'' informing the Justice Department that it was inconsistent with both the plain letter of the law, as well as congressional intent. In fact, I personally called Attorney General